IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/11/2004

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THE HONOURABLE MR.JUSTICE V.KANAGARAJ

CRL.O.P.No. 34166 OF 2004

R.Raja Petitioner

-Vs-

1.State rep. by
The Inspector of Police
Chengleput Town Police Station
Chengleput.

2.The Superintendent of Police
Chengai MGR District
now Kancheepuram District. Respondents

Petition filed under Section 482 of Cr.P.C praying for the relief
as stated below.

For Petitioner : Mr.G.Mohanakrishnan

For Respondents : Mr.V.Jayaprakash Narayanan
Govt.Advocate (Crl.Side)

:ORDER
This petition has been filed under Section 482 Cr.P.C.
praying to direct the respondents to give police protection to the petitioner.

2. Today, when the above Criminal Original Petition was
taken up for consideration in the presence of the learned counsel for the
petitioner and the learned Government Advocate on the Criminal Side for the
respondents, it comes to be seen that one Chandrasekaran, who is the owner of
Radha Cinema Theatre situated at GST Road, Melmaiyur Village, Chengalpattu
Taluk approached the petitioner to sell the said property and after
negotiation a sale agreement was executed on 18-1-2001 for a sum of Rs.4
crores; that the said Chandrasekaran received Rs.2 5 lakhs as advance and
further Rs.25 lakhs was paid on 25-1-2001 towards sale consideration; that the
said Chandrasekaran received a sum of Rs.21,97,259/- towards sale
consideration by getting material for constructing the Government bridge and
also a sum of Rs.10 lakhs was paid to the creditors of the said Chandrasekaran
and thus, totally a sum of Rs.81,97,269/- was paid to the Chandrasekaran; that
after execution of the sale agreement, he registered a power of attorney on
29-1 -2001 in favour of the petitioner in respect of the said property; that

the petitioner has taken possession and invested huge amount to develop the same; that the Chandrasekaran along with one Ganesan pledged title deeds of the said property as collateral security on 21 -8-2002 in favour of State Bank of Travencore for getting letter of credit; that the said Chandrasekaran sent a letter cancelling the power of attorney of the petitioner and lodged a false complaint against the petitioner and one G.Natarajan and a case came to be registered against them for the offence punishable under Sections 406 and 420 IPC before the Central Crime Branch, Egmore; that the said Chandrasekaran made an attempt to evict the petitioner from the said property by using third degree methods; that the petitioner filed a civil suit in O.S.No.226 of 2004 and in the said suit interim injunction was granted in I.A.No.464 of 2004; that the said Chandrasekaran attempts to evict the petitioner with the help of rowdy elements and therefore, the matter was reported to the respondents on 24-10-2004, but they have not registered any case and no steps have been taken and hence, the petitioner has come forward with the above Criminal Original Petition praying for the relief extracted supra.

3. In consideration of the facts pleaded and having regard to the materials placed on record and upon hearing the learned counsel for the petitioner and the learned Government Advocate on the Criminal Side as well what comes to be known is that in toto the petitioner has parted with a lofty sum of Rs.81,97,269/- and has taken possession of the theatre premises and the accused besides enjoying such a big money that is belonging to the petitioner is now causing all obstacles and hurdles and thus preventing the petitioner from making use of the property for the purpose for which such a big money was imparted by the petitioner.

4. On the part of the learned Government Advocate on the Criminal Side, he would come forward to allege that a civil case is pending before the Civil Forum initiated by the petitioner in O.S.No.226 of 2004 and at a stage even an interim injunction has been granted in I.A. No.464 of 2004 and inspite of the same having become vacated the civil proceeding is going on and therefore, that is not the answer for the present crisis, which is only regarding the possession and usage of the property and the only point for consideration so far as it is concerned with the Criminal Original Petition above is, whether the petitioner who comes forward to allege that he has parted with such a big amount and taken possession of the property in order to not only run the theatre, but also to develop it as a real estate property has been by threatening measures and by third degree methods the counter petitioner is causing hindrance to his bona fide possession and thus to prevent him from his legal rights and therefore, would seek protection from the police and in these circumstances since no proper answer comes from the side of the respondents for such a big money having been imparted and received by the counter petitioner, it is only desirable to issue such directions as it is required by the petitioner and hence, the following order.

In result,
(i) the Criminal Original Petition is allowed;
(ii) the respondents are hereby directed to give all police protection to the petitioner to continue to be in possession and enjoyment of the disputed property morefully described in the above Criminal Original

Petition till such time that a decision is taken by the civil forum in the case registered before it;
(iii)Such protection shall be afforded to the petitioner as and when necessary, thus warding of any alien influence being wielded to disturb him from his legal possession of the property concerned;
(iv) If any nominal charges are to be paid for affording protection then it shall be the burden of the petitioner to bear with.

Index: Yes

Internet:yes
paa

To

1. State rep. by
The Inspector of Police
Chengleput Town Police Station
Chengleput.

2. The Superintendent of Police
Chengai MGR District
now Kancheepuram District.

3. The Public Prosecutor
High Court, Madras.